

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|--------------------------------|---|---------------------|
| In the Matter of |) | |
| |) | |
| North Carolina RSA 3 Cellular |) | CC Docket No. 96-45 |
| Telephone Company |) | |
| |) | |
| Petition for Designation as an |) | |
| Eligible Telecommunications |) | |
| In the State of North Carolina |) | |

Reply Comments of North Carolina RSA 3 Cellular Telephone Company

North Carolina RSA 3 Cellular Telephone Company d/b/a Carolina West Wireless (“Carolina West”), by its counsel, submits these Reply Comments pursuant to the FCC’s Public Notice¹ regarding Carolina West’s Petition for Designation as an Eligible Telecommunications Carrier (“ETC”), as amended (“Petition”). Comments were submitted by CTIA – The Wireless Association™ (“CTIA”) and Verizon. No affected carrier has objected to the Petition.

CTIA correctly states that Carolina West’s Petition “demonstrates that Carolina West meets the requirements for designation as an ETC.” CTIA Comments at p. 2. The North Carolina Utilities Commission (“NCUC”) provided an affirmative statement that it does not have jurisdiction over Carolina West’s ETC Petition, and a copy of that statement was attached to the Petition. Carolina West demonstrated its capability and commitment to offer the supported services throughout its requested ETC service area, and to advertise those services, and it submitted a sworn affidavit by the company’s General Manager in compliance with the FCC’s requirements. Carolina West demonstrated that a grant of its Petition would serve the public

¹ *Parties are Invited to Comment on Carolina West Wireless’ Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*, Public Notice, DA 04-2067 (rel. Aug. 3, 2004) (“Public Notice”).

interest in specific, identifiable ways, by increasing customer choice and service quality, providing important health and public safety benefits, and eliciting competitive responses from incumbent wireline carriers. Carolina West also set forth specific commitments, including a proposed network build-out plan and service quality commitments, consistent with those made by Virginia Cellular and Highland Cellular. Finally, Carolina West provided a population density analysis demonstrating that its proposed redefinition of the two rural LEC service areas it partially covers would not result in cream-skimming.

The only objection came from Verizon, a company that is not affected by the Petition and therefore is hardly in a position to object. No mention is made of the facts of the case, other than to express concern about the “cumulative effect” of granting this and other competitive ETC petitions in front of the FCC (and, presumably, state commissions as well). It also states that the Petition fails to satisfy the “threshold criteria” for designation in “non-rural areas”, but Verizon does not state what those criteria consist of or why it believes the Petition falls short. Notably, Verizon’s objection is not joined by BellSouth, the non-rural LEC that *is* affected by the Petition. Nor is it joined by any rural LEC.

Verizon’s statement that it “opposes the instant petition for the reasons stated in the attached comments Verizon filed regarding other petitions seeking [ETC] status” acknowledges the same programmatic complaints it has previously made and are more properly before the Joint Board rulemaking proceeding currently underway in CC Docket No. 96-45. The FCC clearly realizes that the possibility of future rule changes does not diminish its statutory duty to continue to grant ETC status to qualified carriers.² This approach was confirmed earlier this week in the

² See, e.g., *Virginia Cellular, LLC*, 19 FCC Rcd 1563 (2004) (“*Virginia Cellular*”); *Highland Cellular, Inc.*, 19 FCC Rcd 6422 (2004) (“*Highland Cellular*”); *Guam Cellular and Paging, Inc. d/b/a Saipancell*, DA 04-2268 (rel. July 23, 2004).

FCC's grant of ETC status to NPCR, Inc. d/b/a Nextel Partners in seven different states, including rural areas.³

Moreover, Verizon's reliance on "the reasons stated in the attached comments" is misplaced, because those comments are largely aimed at the FCC's rules and contain many arguments that are inapplicable to Carolina West's Petition. For example, while Verizon states that "rural cream-skimming concerns must be addressed", it ignores Carolina West's detailed discussion in the Petition – including a population density analysis consistent with those used in *Virginia Cellular* and *Highland Cellular* – showing how it would be impossible for Carolina West to engage in cream-skimming.

In sum, Verizon's Opposition does not address the merits of Carolina West's request for ETC designation. Its concerns are being addressed in the ongoing proceeding regarding the recommendations of the Joint Board or the comment cycle recently announced by the Joint Board to consider, *inter alia*, the basis on which incumbent and competitive ETCs receive high-cost support.

Because no affected LEC has objected to Carolina West's Petition, Carolina West asks the Commission to expedite a grant of this petition so that consumers in rural western areas of North Carolina can begin to see new investment in their wireless telecommunications infrastructure at the earliest possible date.

³ See NPCR, Inc. d/b/a Nextel Partners, DA 04-2667 (rel. Aug. 25, 2004).

Respectfully submitted,

North Carolina RSA 3 Cellular Telephone Company

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